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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2021/2022

UYL 2612 – CYBERLAW (All sections / Groups)

21 APRIL 2022

Reading Time: 9.15am – 9.30am
(15 Minutes)

Answering Time: 9.30am – 12.30pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only.
3. Answer **ONE** question in **PART A** and **ALL** questions in **PART B**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
 - i. Communications and Multimedia Act 1998
 - ii. Computer Crimes Act 1997
 - iii. Trade Marks Act 1976 and Trade Marks Act 2019
 - iv. Personal Data Protection Act 2010
 - v. Electronic Commerce Act 2006
 - vi. Copyright Act 1987

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER ONE (1) QUESTION ONLY**QUESTION 1**

“Illegal streaming could be particularly costly in Malaysia. TorrentFreak reports the country has passed amendments to its Copyright Act that punish those who enable pirate streaming. People who offer streaming services and devices that “prejudicially” hurt copyright owners can face fines equivalent to \$2,377 or more, prison sentences up to 20 years, or both.

The updated law also discourages companies from either participating in streaming piracy or tolerating its presence. Unless managers can show they were unaware of a violation and took “all due diligence” to stop such acts, they’ll be considered guilty of the relevant crime.”

-J. Fingas, ‘*Malaysia’s updated copyright law imprisons streaming pirates for up to 20 years*’, Engadget, 19 December 2021

Based on the excerpt above, describe the liability and the responsibilities of the Internet Service Provider (ISP) for any online materials posted on the internet. Support your answer with relevant authorities and case laws.

(Total: 25 marks)

QUESTION 2

a) Explain the significance of Dato’ Aishaf Falina Bt Ibrahim v Ismail Bin Othman & 2 Ors (2016) MLJU 1613 on privacy in Malaysia. Do you think the verdict plays an important impact in the year 2022 in Malaysia?

(10 marks)

b) It can be argued that Malaysian Law(s) is/are still inadequate to guarantee a person the right to privacy. Do you agree with the above statement? Illustrate your argument with cases and authorities.

(15 marks)

(Total: 25 marks)

PART B: ANSWER ALL QUESTIONS**QUESTION 3**

Lim is an employee of “Bank XX”, a well-known overseas bank located in Malaysia with several branches in the country. He was assigned to the credit section of the Bank’s office in Kuala Lumpur as a systems analyst.

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In his daily work, it was possible for him to access all customers' accounts. However, he was only to access those accounts that were assigned to him. Despite this ruling, he accessed various other accounts and files. After having gained entry to those accounts, he communicated the information contained, as well as how to access them in the future by sharing the passwords, with Ben, who was not employed by Bank XX. In fact, Ben is a Malaysian citizen working and living in Thailand. Ben used the information given to him to encode other credit cards in Bank XX and supply Personal Identification Number (PIN) which could then be used to obtain large sums of money from automatic teller machines in Thailand and Malaysia.

To cover his tracks on the computer Lim deleted some of the logs in the computer network belonging to Bank XX. Despite this attempt the computer records in Bank XX indicated that he accessed 289 accounts that did not fall within the scope of his duties. Using the confidential information obtained, Lim and Ben defrauded Bank XX of approximately RM1,000,000. Ben was arrested in Thailand with forged credit cards in his possession and was photographed using one such card to transfer money from an Automatic Teller Machine in Thailand to Lim's account in Malaysia.

a) Advise Bank XX as to the possible charges, if any, against Lim under the relevant statutory provisions in Malaysia. Support your answer with relevant case law.

(15 marks)

b) The Government of Malaysia wishes to bring an action against Ben. Does the current legislative framework in Malaysia allow for such a charge to be brought against him?

(10 marks)

(Total: 25 marks)

QUESTION 4

Yelena just started working at Shrek Production Sdn Bhd as an executive director under the supervision of Mr. Young, the director of the marketing department. Her first week was fun until Yelena realized that Mr. Young kept sending her emails containing vulgar and demeaning remarks, dirty jokes of sexual nature and use of uncouth words. She ignored it at first but it started getting much worse. When no one was around, Mr. Young would place his hand around her waist and buttocks. It has been months and Yelena has gotten depressed and unhappy. She has no one to turn around to and only has you.

As a friend who learned about cyberlaw, advise her of the following:

a) Whether there is any electronic evidence that Yelena could use if she decided to sue Mr. Young for sexual harassment.

(5 marks)

Continued...

b) Based on your answer in (a), classify the important step(s) to be taken to ensure that there is no break of chain of the electronic evidence.

(10 marks)

c) Based on your answer in (a), assess the admissibility of the electronic evidence in court.

(10 marks)

(Total: 25 marks)

QUESTION 5

Ben is a data scientist. He also introduces himself as a blogger who regularly writes and speaks on psychology, sociology and genetics. He writes on several controversial topics including the IQ of different migrant groups, and the morality of online indecent and pornographic material. On 3 February 2020 Ben published a blog/article on the website unz.com. In the blog Ben criticised about Karlin (a migrant but now a data scientist like himself). This blog attracted a significant number of comments from numerous Internet users. The existence of this blog has been made known to Karlin by his colleagues. Karlin complains that what was published by Ben imputed that he was a sexual abuser and that he was a stalker who had acted in a predatory sexual manner that was socially unacceptable. Karlin also complains that the published comments in the comment section of the online blog are obscene and defamatory in nature in their natural and ordinary meaning and that it had also gained tweets published from Ben's Twitter account in 2020. The messages in the Tweets have been accompanied by hyperlinks to other Internet Content.

Karlin wishes to bring an action against Ben and comes to you for advice. Advise Karlin with reference to provisions in Communication and Multimedia Act 1998.

(Total: 25 marks)

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